

AN ACT

RELATING TO THE CONTROL OF EFFLUENT FROM ANIMAL TRUCK WASH FACILITIES, BY REQUIRING CERTAIN PERMITS, REGULATING STORAGE AND APPLICATION OF EFFLUENT, AND MAKING PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 459A.101, Code 2015, is amended to read as follows:

459A.101 Title.

This chapter shall be known and may be cited as the *"Animal Agriculture Compliance Act for Open Feedlot ~~Operations~~ Operations and Animal Truck Wash Facilities"*.

Sec. 2. Section 459A.102, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. *"Animal truck wash effluent"* means a combination of manure, washwater-induced runoff, or other runoff derived from an animal truck wash facility, which may include solids.

NEW SUBSECTION. 3B. *"Animal truck wash effluent structure"* means an impoundment which is part of an animal truck wash facility, if the primary function of the impoundment is to collect and store animal truck wash effluent.

NEW SUBSECTION. 3C. "*Animal truck wash facility*" means an operation engaged in washing single-unit trucks, truck-tractors, semitrailers, or trailers used to transport animals.

NEW SUBSECTION. 7A. "*Concentrated animal feeding operation*" means the same as defined in 40 C.F.R. §122.23.

NEW SUBSECTION. 7B. "*Confinement feeding operation*" means the same as defined in section 459.102.

NEW SUBSECTION. 11A. "*Effluent*" means open feedlot effluent or animal truck wash effluent.

NEW SUBSECTION. 11B. "*Federal Water Pollution Control Act*", means the federal Water Pollution Control Act of 1972, 33 U.S.C. ch. 26, as amended, and 40 C.F.R., pts. 122 and 412.

NEW SUBSECTION. 11C. "*Formed animal truck wash effluent structure*" means a covered or uncovered impoundment used to store effluent from an animal truck wash facility, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

NEW SUBSECTION. 13A. "*Karst terrain*" means the same as defined in section 459.102.

NEW SUBSECTION. 13B. "*Manure storage structure*" means the same as defined in section 459.102.

NEW SUBSECTION. 13C. "*NPDES permit*" means a permit issued by the department under the national pollutant discharge elimination system pursuant to the federal Water Pollution Control Act of 1972, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 412.

NEW SUBSECTION. 19A. "*Owner*" means a person who holds legal or equitable title to any of the following:

a. The property where an open feedlot operation or animal truck wash facility is located.

b. An open feedlot operation structure which is part of an open feedlot operation or an animal truck wash effluent structure which is part of an animal truck wash facility.

NEW SUBSECTION. 19B. "*Professional engineer*" means the same as defined in section 459.102.

NEW SUBSECTION. 23A. "*Small animal feeding operation*" means the same as defined in section 459.102.

NEW SUBSECTION. 23B. "*Small animal truck wash facility*" means an animal truck wash facility, if all of the following apply:

a. The animal truck wash facility and all single-unit trucks, truck-tractors, semitrailers, or trailers that are

washed at the facility are owned by the same person.

b. The average total per day volume of washwater used by the animal truck wash facility does not exceed two thousand gallons as calculated on a monthly basis.

NEW SUBSECTION. 23C. *a.* *"Solids"* means that portion of effluent that meets all of the following requirements:

(1) Does not flow perceptibly under pressure.

(2) Is not capable of being transported through a mechanical pumping device designed to move a liquid.

(3) The constituent molecules do not flow freely among themselves but do show the tendency to separate under stress.

b. *"Solids"* includes settleable solids and scraped solids.

NEW SUBSECTION. 25A. *"Structure"* means any of the following:

a. An open feedlot operation structure.

b. An animal truck wash effluent structure.

NEW SUBSECTION. 25B. *"Unformed animal truck wash effluent structure"* means a covered or uncovered impoundment used to store animal truck wash effluent, other than a formed animal truck wash effluent structure.

Sec. 3. Section 459A.102, subsections 14, 16, and 25, Code 2015, are amended to read as follows:

14. *"Nutrient management plan"* or *"plan"* means a plan which provides for the management of open feedlot effluent, or animal truck wash effluent, including the application of effluent as provided in section 459A.208.

16. *"Open feedlot effluent"* ~~or *"effluent"*~~ means a combination of manure, precipitation-induced runoff, or other runoff from an open feedlot before its settleable solids have been removed.

25. *"Stockpile"* means to store solids from an any of the following:

a. An open feedlot operation outside of an open feedlot operation structure, or outside of an area that drains to an open feedlot operation structure.

b. An animal truck wash facility, outside an animal truck wash facility, or outside an area that drains to an animal truck wash facility.

Sec. 4. Section 459A.102, subsections 19 and 21, Code 2015, are amended by striking the subsections.

Sec. 5. Section 459A.103, subsection 3, paragraph b, Code 2015, is amended to read as follows:

b. Notwithstanding paragraph *"a"*, only for purposes of

determining whether an open feedlot operation must obtain ~~an~~ ~~operating~~ a NPDES permit, the animal unit capacity of the animal feeding operation includes the animal unit capacities of both the open feedlot operation and the confinement feeding operation if the animals in the open feedlot operation and the confinement feeding operation are all in the same category or type of animals as used in the definitions of large and medium concentrated animal feeding operations in 40 C.F.R. pt. 122. In all other respects the confinement feeding operation shall be governed by chapter 459 and the open feedlot operation shall be governed by this chapter.

Sec. 6. Section 459A.103, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. An animal truck wash facility is considered to be part of an animal feeding operation if the animal truck wash facility and animal feeding operation are under common ownership or management and the animal truck wash facility is located within one thousand two hundred fifty feet of the animal feeding operation.

NEW SUBSECTION. 3B. *a.* If an open feedlot operation structure or animal truck wash effluent structure contains effluent from both an open feedlot operation and an animal truck wash facility, the animal truck wash effluent shall be deemed to be open feedlot effluent.

b. If a manure storage structure or animal truck wash effluent structure contains both manure from a confinement feeding operation and animal truck wash effluent from an animal truck wash facility, the effluent shall be deemed to be manure.

Sec. 7. Section 459A.103, subsection 6, Code 2015, is amended to read as follows:

6. The regulation of ~~open feedlot~~ effluent under this chapter shall be construed as also regulating ~~settled open feedlot~~ effluent and solids.

Sec. 8. Section 459A.103, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 8. An animal truck wash facility may be part of either a confinement feeding operation or an open feedlot operation. An animal truck wash effluent structure may also be the same as any of the following:

a. A manure storage structure that is part of the confinement feeding operation, so long as the primary function of such impoundment is to collect and store effluent from both the animal truck wash facility and manure from the confinement

feeding operation.

b. A settled open feedlot effluent basin that is part of the open feedlot operation, so long as the primary function of such impoundment is to collect and store effluent from both the animal truck wash facility and open feedlot operation.

Sec. 9. Section 459A.104, Code 2015, is amended to read as follows:

459A.104 General authority — commission and department — purpose — compliance.

1. The commission shall establish by rule adopted pursuant to chapter 17A, requirements relating to the construction, including expansion, or operation of ~~open~~ all of the following:

a. Open feedlot operations, including any related open feedlot operation structures.

b. Animal truck wash facilities, including any related animal truck wash effluent structures.

2. Any provision referring generally to compliance with the requirements of this chapter as applied to open feedlot operations or animal truck wash facilities also includes compliance with requirements in rules adopted by the commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to licenses, certifications, permits, or nutrient management plans required under this chapter.

3. a. The purpose of this chapter is to provide requirements relating to the construction, including the expansion, and operation of ~~open~~ all of the following:

(1) Open feedlot operations, and the control of open feedlot effluent, which.

(2) Animal truck wash facilities, and the control of animal truck wash effluent.

b. The provisions of this chapter shall be construed to supplement applicable provisions of chapter 459. If there is a conflict between the provisions of this chapter and chapter 459, the provisions of this chapter shall prevail.

Sec. 10. Section 459A.105, Code 2015, is amended to read as follows:

459A.105 Exception to regulation.

1. a. Except as provided in ~~subsection 2 paragraph~~ "b", the requirements of this chapter which regulate open feedlot operations, including rules adopted by the ~~department~~ commission pursuant to section 459A.104, shall not apply to research activities and experiments performed under the

authority and regulations of a research college, if the research activities and experiments relate to an open feedlot operation structure or the disposal or treatment of effluent originating from an open feedlot operation.

2. b. The requirements of section 459A.410, including rules adopted by the ~~department~~ commission under that section, apply to research activities and experiments performed under the authority and regulations of a research college.

2. a. Except as provided in paragraph "b", the requirements of this chapter, including rules adopted by the commission pursuant to section 459A.104, shall not apply to a small animal truck wash facility.

b. The requirements of section 459A.205, including rules adopted by the commission pursuant to that section shall apply to a small animal truck wash facility only to the extent required by section 459A.205, subsection 4A. The requirements of sections 459A.404 and 459A.410, including rules adopted by the commission under those provisions, apply to a small animal truck wash facility.

Sec. 11. Section 459A.201, subsection 3, paragraph b, Code 2015, is amended to read as follows:

b. (1) A nutrient management plan as provided in section 459A.208 shall be approved or disapproved as part of a construction permit application pursuant to section 459A.205.

(2) ~~If~~ For an open feedlot operation, if the nutrient management plan is not part of an application for a construction permit, the nutrient management plan shall be approved or disapproved within sixty days from the date that the department receives the nutrient management plan.

Sec. 12. Section 459A.205, subsection 1, Code 2015, is amended to read as follows:

1. a. The department shall approve or disapprove applications for permits for the construction, including the expansion, of ~~settled~~ the following structures:

(1) Settled open feedlot effluent basins and alternative technology systems, which are part of open feedlot operations as provided in this chapter.

(2) Animal truck wash effluent structures which are part of animal truck wash facilities as provided in this chapter.

b. The department's decision to approve or disapprove a permit for the construction of a ~~basin or alternative system~~ structure described in paragraph "a" shall be based on whether the application is submitted according to procedures

and standards required by this chapter. A person shall not begin construction of ~~a basin or alternative system requiring a permit~~ such a structure under this section, unless the department first approves the person's application and issues to the person a construction permit.

Sec. 13. Section 459A.205, subsection 3, Code 2015, is amended to read as follows:

3. ~~The department shall not approve an~~ An application for a construction permit ~~unless the applicant submits~~ shall include all of the following:

a. ~~For an open feedlot operation submitting an application for a construction permit on or after April 30, 2007, a~~ A nutrient management plan as provided in section 459A.208.

b. An engineering report, construction plans, and specifications prepared by a licensed professional engineer or the natural resources conservation service of the United States department of agriculture ~~certifying.~~

(1) For an open feedlot operation, the professional engineer must certify that the construction of the settled open feedlot effluent basin or alternative technology system complies with the construction design standards required in this chapter.

(2) For an animal truck wash facility, the professional engineer must certify that the construction of the animal truck wash effluent structure complies with the construction design standards required in this chapter. However, an animal truck wash facility electing to use a formed animal truck wash effluent structure, in lieu of an engineering report, may submit a construction design statement that meets the requirements of sections 459.306 and 459.307.

Sec. 14. Section 459A.205, subsection 4, unnumbered paragraph 1, Code 2015, is amended to read as follows:

~~An~~ For an open feedlot operation, ~~must be issued~~ a construction permit must be issued prior to any of the following:

Sec. 15. Section 459A.205, subsection 4, paragraph a, Code 2015, is amended to read as follows:

a. The construction, including expansion, of a settled open feedlot effluent basin or alternative technology system if the open feedlot operation is required to be issued ~~an operating a~~ NPDES permit.

Sec. 16. Section 459A.205, subsection 4, paragraph b, unnumbered paragraph 1, Code 2015, is amended to read as

follows:

~~The~~ When the department has previously issued the open feedlot operation a construction permit and any of the following applies:

Sec. 17. Section 459A.205, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. For an animal truck wash facility, a construction permit must be issued prior to any of the following:

a. The construction, including expansion, of an animal truck wash effluent structure.

b. When the department has previously issued the animal truck wash facility a construction permit and the volume of the animal truck wash effluent would be more than the volume approved by the department in the previous construction permit.

c. When the animal truck wash facility is part of a confinement feeding operation, and all of the following apply:

(1) The department has issued a construction permit under section 459.303 or a letter approving a construction design statement in lieu of a construction permit as provided by rules adopted by the commission under section 459.103.

(2) The animal truck wash effluent will be added to an existing manure storage structure resulting in a total stored volume greater than that approved in the construction permit or the construction design statement approval letter.

d. When the animal truck wash facility is part of an open feedlot operation, and all of the following apply:

(1) The department has issued a construction permit under this section or a NPDES permit under section 459A.401.

(2) The animal truck wash effluent will be added to an existing settled open feedlot effluent basin resulting in a total stored volume greater than that approved in the construction permit or NPDES permit.

e. When the animal truck wash facility is constructed or expanded as part of a small animal feeding operation that includes a manure storage structure, and the animal truck wash effluent will be added to the manure storage structure. However, a construction permit is not required under this section for a small animal truck wash facility or for a small animal truck wash facility that is part of a small animal feeding operation.

Sec. 18. Section 459A.205, subsection 6, unnumbered paragraph 1, Code 2015, is amended to read as follows:

~~The~~ For an open feedlot operation, the application for ~~the~~ a construction permit shall include all of the following:

Sec. 19. Section 459A.205, subsection 6, paragraph f, Code 2015, is amended to read as follows:

f. An engineering report, construction plans, and specifications prepared by a ~~licensed~~ professional engineer or by the United States natural resources conservation service, for the settled open feedlot operation effluent basin or alternative technology system.

Sec. 20. Section 459A.205, subsection 6, paragraph h, subparagraph (3), Code 2015, is amended to read as follows:

(3) A public water supply system as defined in section 455B.171 or a drinking water well which is located within a distance from the open feedlot operation as prescribed by rules adopted by the ~~department~~ commission.

Sec. 21. Section 459A.205, subsection 6, paragraph i, subparagraphs (1) and (3), Code 2015, are amended to read as follows:

(1) Information showing that the proposed open feedlot operation meets criteria for siting as established by rules adopted by the ~~department~~ commission. However, if the site does not meet the criteria, the information shall show substantially equivalent alternatives to meeting such criteria.

(3) A conceptual design of the proposed alternative technology system, as developed by a ~~licensed~~ professional engineer.

Sec. 22. Section 459A.205, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. For an animal truck wash facility, the application for the construction permit shall include all of the following:

a. The name of the owner of the animal truck wash facility and the name of the animal truck wash facility, including a mailing address and telephone number for the owner and the animal truck wash facility.

b. The name of the contact person for the animal truck wash facility, including the person's mailing address and telephone number.

c. The location of the animal truck wash facility.

d. A statement providing that the application is for any of the following:

(1) The construction or expansion of an animal truck wash effluent structure for an existing animal truck wash facility

which is not expanding.

(2) The construction or expansion of an animal truck wash effluent structure for an existing animal truck wash facility which is expanding.

(3) The construction of an animal truck wash effluent structure for a proposed new animal truck wash facility.

e. An engineering report, construction plans, and specifications prepared by a professional engineer or by the United States natural resources conservation service, for the animal truck effluent structure.

(1) The engineering report must demonstrate that the storage capacity of its animal truck wash effluent structure is equal to or greater than the amount of effluent to be stored for any six-month period, in addition to two feet of freeboard.

(2) If an animal truck wash effluent structure is to be constructed on karst terrain, the engineering report must establish that the construction complies with the requirements of section 459A.404.

f. A soils and hydrogeologic report of the site, as required in section 459A.206.

g. Information, including but not limited to maps, drawings, and aerial photos that clearly show the location of the animal truck wash facility and all animal truck wash effluent structures.

Sec. 23. Section 459A.205, subsection 7, paragraph a, unnumbered paragraph 1, Code 2015, is amended to read as follows:

Except as provided in paragraph "b", a construction permit for an open feedlot operation or animal truck wash facility expires as follows:

Sec. 24. Section 459A.205, subsection 8, Code 2015, is amended to read as follows:

8. The department may suspend or revoke a construction permit, modify the terms or conditions of a construction permit, or disapprove a request to extend the time to begin or complete construction as provided in this section, if it determines that the operation of the open feedlot operation or animal truck wash facility constitutes a clear, present, and impending danger to public health or the environment.

Sec. 25. Section 459A.206, subsection 1, Code 2015, is amended to read as follows:

1. A settled open feedlot effluent basin or an animal truck wash effluent structure required to be constructed pursuant to

a construction permit issued pursuant to section 459A.205 shall meet design standards as required by a soils and hydrogeologic report.

Sec. 26. Section 459A.207, subsection 1, unnumbered paragraph 1, Code 2015, is amended to read as follows:

The owner of an open feedlot operation who is issued a construction permit for a settled open feedlot effluent basin or the owner of an animal truck wash facility who is issued a construction permit for an animal truck wash effluent structure as provided in section 459A.205 ~~after July 1, 2005,~~ shall submit to the department a construction certification from a ~~licensed~~ professional engineer certifying all of the following:

Sec. 27. Section 459A.207, subsection 1, paragraph b, Code 2015, is amended to read as follows:

b. The basin or structure was inspected by the ~~licensed~~ professional engineer after completion of construction and before commencement of operation.

Sec. 28. Section 459A.208, subsections 1, 3, and 4, Code 2015, are amended to read as follows:

1. The following persons shall develop and implement a nutrient management plan meeting the requirements of this section:

a. The owner of an open feedlot operation which has an animal unit capacity of one thousand animal units or more or which is required to be issued an operating a NPDES permit ~~shall develop and implement a nutrient management plan meeting the requirements of this section.~~

b. The owner of an animal truck wash facility, other than a small animal truck wash facility, which has an animal truck wash effluent structure. However, for an animal truck wash facility which is part of a confinement feeding operation, in lieu of submitting a nutrient management plan, the owner of the animal truck wash facility may submit an original manure management plan and an updated manure management plan to the department as required by section 459.312, including rules adopted by the commission pursuant to that section.

3. a. A person shall not remove open feedlot effluent from an open feedlot operation structure ~~which is part of an open feedlot operation~~ or animal truck wash effluent from an animal truck wash effluent structure for which a nutrient management plan is required under this section, unless the department approves a nutrient management plan as required in this section. ~~The department~~

b. Notwithstanding paragraph "a", the commission may adopt rules allowing a person to remove ~~open feedlot~~ effluent from an open feedlot operation structure or animal truck wash effluent structure until the nutrient management plan is approved or disapproved by the department according to terms and conditions required by rules adopted by the ~~department~~ commission.

4. The department shall not approve an application for a permit to construct a settled open feedlot effluent basin or animal truck wash effluent structure, unless the owner of the open feedlot operation or animal truck wash facility, applying for approval submits a nutrient management plan together with the application for the construction permit as provided in section 459A.205. The owner of the open feedlot operation shall also submit proof that the owner has published a notice for public comment as provided in this section. The department shall approve or disapprove the nutrient management plan as provided in section 459A.201.

Sec. 29. Section 459A.208, subsection 5, unnumbered paragraph 1, Code 2015, is amended to read as follows:

Prior For an animal feeding operation, prior to approving or disapproving a nutrient management plan as required in this section, the department may receive comments exclusively to determine whether the nutrient management plan is submitted according to procedures required by the department and that the nutrient management plan complies with the provisions of this chapter.

Sec. 30. Section 459A.208, subsections 6, 7, and 9, Code 2015, are amended to read as follows:

6. A nutrient management plan must be authenticated by the owner of the open feedlot operation or the owner of the animal truck wash facility as required by the department in accordance with section 459A.201.

7. A nutrient management plan shall include all of the following:

a. Restrictions on the application of open feedlot effluent or animal truck wash effluent based on all of the following:

(1) Calculations necessary to determine the land area required for the application of ~~open feedlot~~ the effluent ~~from an open feedlot operation~~ based on nitrogen use levels in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements adopted by the department.

(2) A phosphorus index established pursuant to section

459.312.

b. Information relating to the application of the ~~open feedlot~~ effluent, including all of the following:

(1) Nutrient ~~levels~~ concentrations of the ~~open feedlot~~ effluent.

(2) Application methods, the timing of the application, and the location of the land where the application occurs.

c. If the application is on land other than land owned or rented for crop production by the owner ~~of the open feedlot operation~~, the plan shall include a copy of each written agreement executed by the owner ~~of the open feedlot operation~~ and the landowner or the person renting the land for crop production where the ~~open feedlot~~ effluent may be applied.

d. An estimate of the ~~open feedlot~~ effluent volume or weight produced by the open feedlot operation or animal truck wash facility.

e. Information which shows all of the following:

(1) There is adequate storage for open feedlot effluent or animal truck wash effluent, including procedures to ensure proper operation and maintenance of ~~the storage structures~~ an open feedlot operation structure or animal truck wash effluent structure.

(2) ~~The~~ For an animal feeding operation, all of the following:

(a) The proper management of animal mortalities to ensure that animals are not disposed of in an open feedlot operation structure or a treatment system that is not specifically designed to treat animal mortalities.

(b) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.

(3) (a) Surface drainage prior to contact with an open feedlot structure is diverted, as appropriate, from the open feedlot operation.

(b) Surface drainage prior to contact with an animal truck wash facility is diverted, as appropriate, from the animal truck wash facility.

~~(4) Animals kept in the open feedlot operation do not have direct contact with any waters of the United States.~~

~~(5) Chemicals or other contaminants handled on-site are not disposed of in an open feedlot operation structure, an animal truck wash facility, or a treatment system that is not specifically designed to treat such chemicals or contaminants.~~

9. The owner of an open feedlot operation or animal truck

wash facility who is required to develop and implement a nutrient management plan shall maintain a current nutrient management plan and maintain records sufficient to demonstrate compliance with the nutrient management plan.

Sec. 31. Section 459A.301, Code 2015, is amended to read as follows:

459A.301 Settled open feedlot effluent basins and animal truck wash effluent structures — construction design standards — rules.

If the department requires that a settled open feedlot effluent basin or animal truck wash effluent structure be constructed according to construction design standards, regardless of whether the department requires the owner to be issued a construction permit under section 459A.205, any construction design standards for the basin or structure shall be established by rules as provided in chapter 17A that exclusively account for special design characteristics of open feedlot operations and related basins or animal truck wash facilities and related structures, including but not limited to the dilute composition of settled ~~open feedlot~~ effluent as collected and stored in the basins or structures.

Sec. 32. Section 459A.302, unnumbered paragraph 1, Code 2015, is amended to read as follows:

A settled open feedlot effluent basin or an animal truck wash effluent structure required to be constructed pursuant to a construction permit issued pursuant to section 459A.205 shall meet all of the following requirements:

Sec. 33. Section 459A.302, subsection 1, paragraph a, unnumbered paragraph 1, Code 2015, is amended to read as follows:

Prior to constructing a settled open feedlot effluent basin or an animal truck wash effluent structure, the site for the basin shall be investigated for a drainage tile line by the owner of the open feedlot operation or animal truck wash facility. The investigation shall be made by digging a core trench to a depth of at least six feet deep from ground level at the projected center of the berm of the basin or structure. If a drainage tile line is discovered, one of the following solutions shall be implemented:

Sec. 34. Section 459A.302, subsections 2, 3, 4, and 5, Code 2015, are amended to read as follows:

2. a. The settled open feedlot effluent basin or an animal truck wash effluent structure shall be constructed with a

minimum separation of two feet between the top of the liner of the basin or structure and the seasonal high-water table.

b. If a drainage tile line around the perimeter of the settled open feedlot effluent basin or animal truck wash effluent structure is installed a minimum of two feet below the top of the ~~basin~~ basin's or structure's liner to artificially lower the seasonal high-water table, the top of the ~~basin's~~ liner may be a maximum of four feet below the seasonal high-water table. The seasonal high-water table may be artificially lowered by gravity flow tile lines or other similar system. However, the following shall apply:

(1) Except as provided in subparagraph (2), an open feedlot operation or animal truck wash facility shall not use a nongravity mechanical system that uses pumping equipment.

(2) If the open feedlot operation was constructed before July 1, 2005, the operation may continue to use its existing nongravity mechanical system that uses pumping equipment or it may construct a new nongravity mechanical system that uses pumping equipment. However, an open feedlot operation that expands the area of its open feedlot on or after April 1, 2011, shall not use a nongravity mechanical system that uses pumping equipment.

3. Drainage tile lines may be installed to artificially lower the seasonal high-water table at a settled open feedlot effluent basin or animal truck wash effluent structure, if all of the following conditions are satisfied:

a. A device to allow monitoring of the water in the drainage tile lines and a device to allow shutoff of the flow in the drainage tile lines are installed, if the drainage tile lines do not have a surface outlet accessible on the property where the ~~settled open feedlot effluent~~ basin or structure is located.

b. Drainage tile lines are installed horizontally at least twenty-five feet away from the ~~settled open feedlot effluent~~ basin or structure. Drainage tile lines shall be placed in a vertical trench and encased in granular material which extends upward to the level of the seasonal high-water table.

4. A settled open feedlot effluent basin or animal truck wash effluent structure shall be constructed with at least four feet between the bottom of the basin or structure and a bedrock formation.

5. A settled open feedlot effluent basin or animal truck wash effluent structure constructed on a floodplain or within

a floodway of a river or stream shall comply with rules ~~of~~ adopted by the department commission.

Sec. 35. Section 459A.302, subsection 6, unnumbered paragraph 1, Code 2015, is amended to read as follows:

The liner of a settled open feedlot effluent basin or animal truck wash effluent structure shall comply with all of the following:

Sec. 36. Section 459A.302, subsection 7, Code 2015, is amended to read as follows:

7. The owner of an open feedlot operation using a settled open feedlot effluent basin or animal truck wash facility using an animal truck wash effluent structure shall inspect the berms of the basin or structure at least semiannually for evidence of erosion. If the inspection reveals erosion which may impact the basin's or structure's structural stability or the integrity of the basin's or structure's liner, the owner shall repair the berms.

Sec. 37. Section 459A.303, subsection 2, Code 2015, is amended to read as follows:

2. The ~~department~~ commission shall adopt rules establishing requirements for the construction and operation of alternative technology systems.

Sec. 38. Section 459A.401, subsection 2, Code 2015, is amended by striking the subsection and inserting in lieu thereof the following:

2. Notwithstanding subsection 1, an open feedlot operation that is a concentrated animal feeding operation shall comply with applicable NPDES permit requirements as provided in the federal Water Pollution Control Act, pursuant to rules that shall be adopted by the commission. Any rules adopted pursuant to this subsection shall be no more stringent than requirements under the federal Act.

Sec. 39. Section 459A.401, Code 2015, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. If the open feedlot operation is designed, constructed, and operated in accordance with the requirements of an open feedlot effluent control system as provided in rules adopted by the commission, the operation shall be deemed to be in compliance with this section, unless a discharge from the operation causes a violation of state water quality standards as provided in chapter 455B, division III.

Sec. 40. Section 459A.401, subsection 3, paragraph a, Code 2015, is amended to read as follows:

a. (1) The open feedlot operation shall not discharge open feedlot effluent from an open feedlot operation structure into any waters of the United States, unless the discharge is pursuant to ~~an operating~~ a NPDES permit.

(2) The open feedlot operation shall not be required to be issued ~~an operating~~ a NPDES permit if the operation does not discharge open feedlot effluent into any waters of the United States.

Sec. 41. NEW SECTION. **459A.404 Animal truck wash facility — construction regulations.**

1. *a.* An animal truck wash effluent structure shall not be constructed, including expanded, within one thousand two hundred fifty feet from a residence not owned by the titleholder of the animal truck wash facility, a commercial enterprise, a bona fide religious institution, an educational institution, or a public use area, as those terms are defined in section 459.102, and as provided in rules adopted by the commission pursuant to section 459.103, and as provided in rules adopted by the commission pursuant to section 459A.104.

b. An animal truck wash effluent structure shall not be constructed or expanded within one hundred feet from a public thoroughfare as defined in section 459.102.

c. Paragraph "*a*" does not apply if a residence, educational institution, commercial enterprise, or bona fide religious institution was constructed or expanded, or if the boundaries of the public use area were expanded, after the date that the animal truck wash facility was established. The date the animal truck wash facility was established is the date on which the animal truck wash facility commenced operating. A change in ownership or expansion of the animal truck wash facility shall not change the established date of operation.

d. Paragraph "*a*" or "*b*" does not apply if the titleholder of the land benefiting from the separation distance requirement, including a person so authorized by the titleholder, executes a written waiver with the titleholder of the land where the animal truck wash effluent structure is located. The structure shall be constructed or expanded under such terms and conditions that the parties negotiate. The state or a political subdivision constructing or maintaining the public thoroughfare benefiting from the separation distance requirement may execute a written waiver with the titleholder of the land where the structure is located. The animal truck wash effluent structure shall be constructed or expanded under

such terms and conditions that the parties negotiate.

e. An unformed animal truck wash effluent structure shall not be constructed or expanded within the following minimum separation distances from any of the following:

- (1) One thousand feet from a public shallow well.
- (2) Four hundred feet from a public deep well.
- (3) Four hundred feet from a private well.

2. *a.* Any separation distance required for a confinement feeding operation structure and a location or object specified in section 459.310, subsection 1, shall also apply to an animal truck wash effluent structure and that same location or object.

b. Any requirement, qualification, or exception that applies to a separation distance required for a confinement feeding operation structure and a location or object specified in section 459.310, subsections 1 and 3, shall also apply to the separation distance required for an animal truck wash effluent structure and that same location or object. A separation distance requirement shall not apply to any of the following:

- (1) An animal truck wash effluent structure and a farm pond or privately owned lake, as defined in section 462A.2.
- (2) An animal truck wash effluent structure constructed with a secondary containment barrier in accordance with rules adopted by the commission. The rules shall correspond to rules adopted pursuant to section 459.310, subsection 3.

3. *a.* An animal truck wash effluent structure shall not be constructed, including expanded, on land that is part of a one hundred year floodplain as designated by rules adopted by the commission pursuant to section 459A.104. The rules shall correspond to rules adopted pursuant to section 459.310, subsections 2 and 4.

b. For purposes of section 459.310, subsection 4, the provisions relating to an unformed manure storage structure shall apply to an unformed animal truck wash effluent structure and the provisions relating to a formed manure storage structure shall apply to a formed animal truck wash effluent structure.

c. Notwithstanding section 459.310, subsection 4, a requirement relating to animal weight capacity or animal unit capacity shall not apply. In addition, the capacity of a replacement animal truck wash effluent structure shall not exceed the amount required to store animal truck wash effluent for any eighteen-month period.

4. A person shall not construct or expand an unformed animal

truck wash effluent structure within an agricultural drainage well area as provided in section 460.205.

5. A person shall not construct an unformed animal truck wash effluent structure on karst terrain or on an area that drains into a known sinkhole. However, a person may construct an animal truck wash effluent structure if there is a twenty-five foot vertical separation distance between the bottom of the structure and underlying limestone, dolomite, or other soluble rock as documented in the engineering report submitted to the department pursuant to section 459A.205.

Sec. 42. Section 459A.410, Code 2015, is amended to read as follows:

459A.410 Effluent application requirements.

1. Open feedlot effluent or animal truck wash effluent shall be applied in a manner which does not cause surface water or groundwater pollution. Application in accordance with the provisions of state law, including this chapter, rules adopted pursuant to the provisions of state law, including this chapter, and guidelines adopted pursuant to this chapter, shall be deemed as compliance with this section.

2. A separation distance in section 459.314 that applies to the land application of liquid manure from a confinement feeding operation shall also apply to animal truck wash effluent from an animal truck wash effluent structure in accordance with rules adopted by the commission.

3. A person shall not apply animal truck wash effluent on land located within seven hundred fifty feet from a residence not owned by the titleholder of the land in accordance with rules adopted by the commission. This separation distance does not apply to the following:

a. The animal truck wash effluent is injected into the soil or incorporated within the soil not later than twenty-four hours from the original application, as provided by rules adopted by the commission.

b. The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the animal truck wash effluent is applied.

c. The animal truck wash effluent is from a small animal truck wash facility or an animal truck wash facility that is part of a small animal feeding operation.

Sec. 43. Section 459A.411, Code 2015, is amended to read as follows:

459A.411 Discontinuance of operations.

The owner of an open feedlot operation or animal truck wash facility who discontinues ~~the use of the~~ its operation shall remove all ~~open feedlot~~ effluent from related open feedlot operation structures or animal truck wash effluent structures used to store ~~open feedlot~~ effluent, as soon as practical but not later than six months following the date the operations of the open feedlot operation or animal truck wash facility is discontinued.

KRAIG PAULSEN
Speaker of the House

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 583, Eighty-sixth General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2015

TERRY E. BRANSTAD
Governor